

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

BANK ONE, N.A. PLAINTIFF

V. CIVIL ACTION NO. 2:01CV037

THELMA THOMAS DEFENDANT

ORDER

This cause comes before the court upon the plaintiff's motion to compel arbitration and the defendant's motions to dismiss and for discovery. Upon due consideration, the court finds that the plaintiff's motion to compel arbitration is well-taken and shall be granted. The defendant's motions shall be denied.

This case is one of a number of cases arising from the sale and financing of home satellite television systems and is essentially identical, except in one respect, to those that have been previously ruled upon by this court, the United States District Court for the Southern District of Mississippi, and the Fifth Circuit Court of Appeals. Unlike the defendants in the related cases, however, Thomas argues that she had paid the balance of her Bank One account prior to the amendment at issue and is, therefore, not subject to the arbitration provision. The court is unpersuaded by her argument.

The record clearly reveals that the account at issue was an open-ended or revolving credit account and, as such, remained open even after Thomas paid the balance. Thomas could have terminated her relationship with Bank One after she paid her balance by notifying the bank of her desire to close the account. She did not do so. Thomas, therefore, is subject to the amendment and arbitration provision since she failed to opt out.

With the exception of the argument addressed above, the defendant takes essentially the same position in opposition to the plaintiff's motion to compel arbitration that has been repeatedly rejected by the United States District Court for the Southern District of Mississippi. In Bank One, N.A. v. Coates, 125 F. Supp. 2d 819 (S.D. Miss. 2001), the Southern District Court addressed and rejected many of

the same arguments presented by the defendant in the present case and denied Coates' motions for joinder, dismissal, discovery, and abstention while granting Bank One's motion to compel arbitration. The Fifth Circuit affirmed Coates and has consistently upheld the Southern District Court's rulings compelling arbitration in this body of cases.¹ In Bank One, N.A. v. Quinn, No. 01-60543, *et seq.* (5th Cir. July 18, 2002), the court affirmed fourteen separate orders entered by the Southern District Court compelling arbitration in related cases, referenced its consistent rulings in other related cases, and adopted the district court's reasoning in Coates. The court found as follows:

These cases are indistinguishable from those that we reviewed and ruled on in the related cases of Bank One, N.A. v. Boyd and Bank One, N.A. v. Lake. For essentially the same reasons that are set forth in our opinion in Boyd and in the district court's opinion in Bank One, N.A. v. Coates, the judgments of the district court in these cases are, in all respects, affirmed.

Id. (citations omitted). This court is persuaded by the plaintiff's arguments and by the previous rulings in the related and virtually indistinguishable cases.

It is, therefore, **ORDERED** and **ADJUDGED** that the plaintiff's motion to compel arbitration is **GRANTED**; that the defendant's motions to dismiss and for discovery are **DENIED**; and this case is closed.

This, the _____ day of December, 2002.

NEAL B. BIGGERS, JR.
SENIOR U.S. DISTRICT JUDGE

¹The Fifth Circuit's opinions in these matters are unpublished. 5th Cir. R. 47.5.4 provides that an unpublished opinion is not precedent but may be cited as persuasive authority.